

**CONSENT AGENDA 'e'**

**Approval of Budget Amendment**

For the meeting of: March 15, 2016

**Title: 2015-2016 Budget Amendment**

By: Julie McManus, Finance Officer

Approved:  \_\_\_\_\_

**RECOMMENDATION:** Approve budget amendment to the 2015-2016 budget of \$55,450 for repairs and maintenance of the City bucket truck, the impact fee study for fire, police, and parks, and the wastewater aerated digester project.

**BACKGROUND:** The City authorized spending of \$12,097,140 in Resolution #15-45 in August. Additional needs have arisen since that time in three areas:

- Bucket Truck : The City-owned bucket truck is aging and required significant repairs recently, costing over \$14,500. The bucket truck is primarily used for tree-trimming activities surrounding rounds to provide clear access, but is also used for parks, holiday decorations and city signs in the downtown area. As it is a critical piece of equipment, repairs were completed. A portion of the repairs was assigned to pre-existing city expense accounts for repairs. This request is for \$8,500 for the roads allocation to the project from gas tax funds.
- Impact Fee Study: The impact fee study project was in negotiations at the time of budget approval. It was erroneously included in the budget at \$15,000 for all of the areas of concern: traffic, police, fire, and parks. The bulk of the project was assigned to TOT roads fund within the approved budget. Ultimately, two contracts were signed for the studies, one for traffic and one for the general fund departments. This request is to increase the impact fee study budget for the police, fire, and park impacts by \$16,950 to accommodate the approved contract.
- Wastewater Aerated Digester Project: The aerated digester project was included in the original authorized budget at \$150,000. This request is for an additional \$30,000, which is expected to be needed for the final installation of piping and electrical.

**FISCAL IMPACT:** The additional request for \$55,450 is broken down as follows:



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**CITY OF ANGELS** PO Box 667, 584 S.Main St., Angels Camp, CA 95222 **P:** (209) 736-2181 **F:** (209) 736-0709

	<b>General Fund</b>	<b>Gas Tax Fund</b>	<b>Wastewater Fund</b>
<b>Beg Net Position/Fund Bal</b>	\$1,055,465	\$62,911	\$798,758
Orig Budget Authorization -Net	(\$162,690)	\$545	(\$283,879)
Bucket Truck Repairs		(\$8,500)	
Impact Fee Study	(\$16,950)		
Aerated Digester			(\$30,000)
<b>End Net Position/Fund Bal</b>	<b><u>\$875,825</u></b>	<b><u>\$54,956</u></b>	<b><u>\$484,879</u></b>

The new spending authority for fiscal year 2015-2016 would be \$12,152,590 upon approval of this amendment.



**CITY OF ANGELS  
CITY COUNCIL**

**Resolution No. 16-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANGELS AMENDING  
THE ANNUAL BUDGET FOR THE 2015/2016 FISCAL YEAR FOR VARIOUS PROJECTS  
AND REPAIR OF EQUIPMENT**

**WHEREAS**, the City Council adopted Resolution #15-28, which adopted the budget for Fiscal Year 2015-16 and authorized spending totaling \$12,069,689; and

**WHEREAS**, the City Council adopted Resolution #15-28, which amended the budget for Fiscal Year 2015-16 for changes in various memorandum of agreements and contracts and amended spending the total spending to \$12,097,140; and

**WHEREAS**, several City needs have presented themselves that require additional spending for repairs on the City bucket truck, the impact fee study for police, fire, and parks, and the wastewater aerated digester project.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Angels amends the budgetary spending to \$12,152,590 for Fiscal Year 2015-16, an increase of \$55,450 that is comprised from impacts from bucket truck repairs, an impact fee study, and the wastewater aerated digester project.

**ON A MOTION BY** Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing resolution was duly passed and adopted this 15 day of March, 2016 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Wes Kulm  
Mayor

ATTEST:

\_\_\_\_\_  
Mary Kelly  
City Clerk



**HOME OF THE JUMPING FROG**

**CONSENT AGENDA 'f'**

**Amendment to UWPA JPA**

**CITY COUNCIL  
CITY OF ANGELS  
STATE OF CALIFORNIA**

**RESOLUTION #16-11**

**RESOLUTION APPROVING AMENDMENT TO JOINT POWERS AGREEMENT FOR THE  
UTICA WATER AND POWER AUTHORITY**

**WHEREAS**, the City of Angels is a member of the Utica Water and Power Authority (UWPA); and

**WHEREAS**, the Amended Joint Powers Agreement for the Utica Power Authority, dated May 18, 2005, provides, in Section 7, that the Amended Joint Powers Agreement may be amended by an agreement approved by all parties to said Agreement; and

**WHEREAS**, the UWPA Board of Directors is made up of two City Councilmembers, two Directors from the Union Public Utility District, and one at-large public member; and

**WHEREAS**, the UWPA Board of Directors recently appointed the at-large public member and now seeks to amend the Joint Powers Agreement to allow for the appointment of an alternate at-large public member;

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Angels hereby approves the changes on the attached Third Amendment to the Joint Powers Agreement and authorizes the Mayor to execute the Agreement.

**ON A MOTION BY** Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_ the foregoing resolution was duly passed and adopted this 15th day of March, 2016 by the following vote:

AYES:

NAYS:

ABSTAIN:

ABSENT:

APPROVED:

\_\_\_\_\_  
Wes Kulm  
Mayor

ATTEST:

\_\_\_\_\_  
Mary Kelly  
City Clerk



**HOME OF THE JUMPING FROG**

AMENDED  
JOINT POWERS AGREEMENT  
UTICA POWER AUTHORITY

MAY 18<sup>TH</sup>, 2005

[typed from pages 4 and 5]

ARTICLE III

INTERNAL ORGANIZATION

Section 3.1 Governing Body

- a. The business of the Authority shall be conducted by a five member Board of Directors, consisting of two (2) directors appointed by UPUD, and two (2) directors appointed by ANGELS, and a fifth "at-large" director who shall be appointed by majority vote of the UPUD and ANGELS members of the UPA to serve a two (2) year term, and who can be reappointed to serve successive terms. The selection process shall be determined by the Board. Said fifth "at-large" director will have all the duties and responsibilities of an elected director except he or she cannot hold an officer position. Said fifth "at-large" director shall be subject to recall and replacement at any time upon the vote of the UPUD and ANGELS members of the UPA as set forth in Section 3.3.b.

An alternate "at-large" member may be appointed by a majority vote of the four directors serving for UPUD and ANGELS. The role of the alternate "at-large" director, if appointed, is to assume the duties of the "at-large" director in the absence or unavailability of the "at-large" director. The UPUD and ANGELS directors determine the selection process of the "at-large" alternate. UPUD and ANGELS directors may recall and remove the "at-large" alternate by majority vote.

The two UPUD and two ANGELS Directors and the alternates for those directors shall from time to time be selected from and designated in writing by the governing body of each of the parties. The governing body of each party shall designate an alternate for each director who shall serve in the absence of their Directors. The role of the alternate director shall be to assume the duties of the director appointed by his/her member entity in case of the absence or unavailability of such Directors. The Directors and the alternates so named shall serve at the pleasure of their respective appointing governing body and shall continue to serve until the respective successors are appointed.

## **AGENDA ITEM #1**



**FOR THE MEETING OF: March 15, 2016**

**TITLE: Approve Resolution Directing the Preparation of the Engineers Report for the Continuation of the Landscape Lighting District No.1 Greenhorn Creek**

**BY: Michael McHatten, City Administrator**

**APPROVED:**  \_\_\_\_\_

**SUMMARY RECOMMENDATION**

Staff recommends City Council approve Resolution No. 16-08 directing the preparation of the Engineers Report for the continuation of the Landscape Lighting District No.1 Greenhorn Creek.

**EXECUTIVE SUMMARY**

SCI Consulting Group (SCI) recently prepared the 2015/2016 Engineers Report for the Greenhorn Creek Landscape and Lighting District No.1 (LLD). In preparation for the Engineers Report for 2016/2017, staff is recommending that the City Council approve a Resolution directing preparation of the Engineers Report and subsequently designating SCI the Engineer of Work for that purpose.

Once approved, SCI will begin the preparation of the Engineers Report based on the attached schedule. The scope of the various tasks associated with the preparation of the Engineers Report includes:

- Review and Reconciliation of Boundaries/Parcels
- Development of the Engineers Report
- Quality Control and Levy Re-verification
- District Information, Levy Confirmation/Coordination with County Tax Collector
- Responding to Public Inquiries and Appeals

**FINANCIAL IMPACT**

The total cost for the preparation of the Engineers Report is \$3,500 and would be included in the budget as part of the FY 16/17 LLD Engineers Report.



**CITY OF ANGELS  
RESOLUTION NO. 16-08**

**COUNTY OF CALAVERAS, STATE OF CALIFORNIA,  
DIRECTING PREPARATION OF THE ENGINEER'S REPORT  
FOR THE CONTINUATION OF THE LANDSCAPING AND  
LIGHTING DISTRICT NO. 1 – GREENHORN CREEK**

**WHEREAS**, the City Council of the City of Angels proposes to continue the annual assessments during 7/1/16-6/30/17 for the Landscaping and Lighting District No. 1 – Greenhorn Creek which was previously formed in accordance with the Landscaping and Lighting Act of 1972 (Streets and Highways Code Section 22500, et seq.); and

**WHEREAS**, the Streets and Highways Code Section 22622 requires the governing body of a local agency to adopt a resolution ordering the preparation of an engineer's report and to generally describe any proposed new improvements and/or substantial changes to an existing improvement prior to levying and collecting an annual assessment for an existing Landscaping and Lighting Assessment District.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Angels as follows:

**Section 1:** The annual Engineer's Report for Landscaping and Lighting District No. 1 – Greenhorn Creek shall be prepared by SCI Consulting Group who is designated the Engineer of Work; thereafter the Report shall be filed with the Clerk for submission to the City Council:

**Section 2:** Any new improvements and/or substantial changes in existing improvements that are proposed to be paid for out of the 2016-2017 annual assessments will be specified in the Engineer's Reports.

**Section 3:** This resolution is adopted pursuant to Section 22622 of the Streets and Highways Code.

**ON A MOTION BY** Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing resolution was duly passed and adopted by the City Council of the City of Angels, at a regularly scheduled meeting held on this 15th day of March, 2016 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Wes Kulm  
Mayor

ATTEST:

\_\_\_\_\_  
Mary Kelly  
City Clerk



**HOME OF THE JUMPING FROG**

**CITY OF ANGELS  
GREENHORN LIGHTING AND LANDSCAPING DISTRICT  
FISCAL YEAR 2016-17 LEVY PROPOSED TIMELINE**

January '16							February '16							March '16							April '16						
Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa
					1	2		1	2	3	4	5	6			1	2	3	4	5					1	2	
3	4	5	6	7	8	9	7	8	9	10	11	12	13	6	7	8	9	10	11	12	3	4	5	6	7	8	9
10	11	12	13	14	15	16	14	15	16	17	18	19	20	13	14	15	16	17	18	19	10	11	12	13	14	15	16
17	18	19	20	21	22	23	21	22	23	24	25	26	27	20	21	22	23	24	25	26	17	18	19	20	21	22	23
24	25	26	27	28	29	30	28	29						27	28	29	30	31			24	25	26	27	28	29	30
31																											

May '16							June '16							July '16							August '16						
Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa	Su	M	Tu	W	Th	F	Sa
1	2	3	4	5	6	7			1	2	3	4				1	2				1	2	3	4	5	6	
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27
29	30	31					26	27	28	29	30			24	25	26	27	28	29	30	28	29	30	31			

<u>TENTATIVE DATE</u>	<u>TASKS TO BE COMPLETED (DETAILED LIST)</u>	<u>RESPONSIBLE</u>
<b>March 15</b>	<b><u>City Council</u></b> - Passage of resolution directing the preparation of the Engineer's Report ( <b>RES1</b> )	District
May 2	CITY – sends budget to SCI	District
May 30	Complete and file Engineer's Report with District	SCI
<b>June 7</b>	<b><u>City Council</u></b> – Passage of resolution of intention to levy annual assessment, preliminarily accepting Engineer's Report and scheduling the Public Hearing ( <b>RES 2</b> )	District
July 7	Publish notice of public hearing (Publish Resolution of Intention, must occur at least 10 days before Public Hearing)	SCI
<b>July 19</b>	<b><u>City Council</u></b> - Public Hearing and approval of resolution approving Engineer's Report and levying annual assessments ( <b>RES 3</b> )	District
August 15	Submission of assessments to County	SCI
September	Confirmation of final levies with County	SCI

NOTES: City Council meetings are held on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of each month at 6:00 pm in the firehouse in Angels Camp located at 1404 Vallecito Road.

## **AGENDA ITEM #2**

CITY OF ANGELS PO Box 667, 584 S.Main St., Angels Camp, CA 95222 P: (209) 736-2181 F: (209) 736-0709

**FOR THE MEETING OF: March 15, 2016**

**TITLE: Authorization for the City of Angels to Purchase a Type 3 Fire Engine either through the use of reserves or via a Fire Apparatus Loan Company**

**BY: Michael C. McHatten, City Administrator**

**APPROVED:**  \_\_\_\_\_

**Recommendation:**

Staff recommends that Council approve the budget authority to purchase a used Type 3 Fire Engine either through reserves or via Fire Apparatus Loan Company.

**Background:**

By way of background staff recommends that in an effort to provide increased fire protection on wildland fires to our City and create an ongoing revenue source for our general fund, we believe the fire department should purchase a used Type 3 fire engine. Over the next few months some departments in California commonly surplus out used type 3 apparatus. These types of used fire engines are few and far between. Most of the time, they are sold at auctions to the highest bidder.

Staff is aware of some auctions coming up. Most of the time, they sell between \$30-60,000. A Type 3 fire engine is what the state requests for strike team deployments. We were fortunate through lobbying last year that we were able to set up an unusual request that allowed Angels City to participate in the Butte fire.

By way of background Chief Rohrabough purchased a 1995 Type 3 fire engine with 100,000 miles on it for Altaville Melones Fire District last year for \$40,000. They were able to secure a very simple fast loan through a Fire Apparatus Loan Company in two days. The loan is 36 months and they pay \$1,015.00 a month. Staff would recommend the same company if the City of Angels choose to pursue a Type 3 engine and choose to finance the apparatus.

Over the last two fiscal years Altaville Melones has received over \$355,000.00 from Cal OES for requests for this engine. After paying their staff they have created a very positive impact on their budgets adding about \$200,000.00. For in County immediate need requests by CalFire they will only request this type of vehicle. Last year Altaville Melones Fire District received about \$30,000.00 for in County requests that was separate from strike team requests.

Fire Chief Rohrabough is keeping his eyes open for auction opportunities. This request would allow him to inspect the vehicle and make a bid up to \$60,000 in which the City Administrator and/or Finance Office would procure the vehicle with the City Council's preferred purchase option.

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**Financial**

Approval of purchase authority of a Type 3 fire engine would equate to a budget amendment based on the actual bid amount and/or type of financing. General Fund reserves would be the source of funds if an outright purchase is approved. If financing is the selected option general fund reserves and possibly future impact fee could be an eligible funding source.

### **AGENDA ITEM #3**

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CITY OF ANGELS PO Box 667, 584 S.Main St., Angels Camp, CA 95222 P: (209) 736-2181 F: (209) 736-0709

**FOR THE MEETING OF: March 15, 2016**

**TITLE: MID-YEAR BUDGET REPORT**

**BY: Michael C. McHatten, City Administrator**

**APPROVED:**  \_\_\_\_\_

**BACKGROUND**

Staff is presenting the Mid-Year Budget Report from July 1, 2105-December 31, 2015.

**Page 1: Major Revenue Sources**

The purpose of this page is to provide a review of our Major Revenue Sources (TOT, Sales Tax and Property Tax) so that Council can gauge our performance versus budget. As illustrated, the City is currently outperforming budget for our major revenue sources with a projected amount received of 52.5%. This is encouraging news as we have enough trend history in the current FY to project that actual performance at year-end should continue and perform better than expected. This in turn becomes a building block for next year's budget.

**Page 2: Transient Occupancy Tax**

This page provides historical TOT revenue trends including actual versus budget for the previous six FY's. Historically, our best performing quarters of the FY are the 1<sup>st</sup> and the 4<sup>th</sup>. Staff is encouraged by the amount collected to date 54.3% of budget since one of our strongest quarters of the FY is still ahead of us.

**Page 3: Sales Tax**

This page provides historical Sales Tax trends including actual versus budget for the previous six FY's. From the figures provided it is easy to see the impact the economy has had on sales tax revenue. Indications are that we are close to budgeted revenue for sales tax 49.3%. However, this is only a prorated amount based on revenue received.

**Page 4: Property Tax**

This page provides historical Property Tax trends including actual versus budget for the previous six FY's. There are three major sources of Property Tax Revenue including Property Tax, Property Tax In-Lieu of Sales Tax and Property Tax In-Lieu of Vehicle License Fees. We have received our first installment and are encouraged by the total collected to date of 52.3% including property Tax In-Lieu of Sales Tax at 64.4%. Staff, in building the budget for next year, will work with the County Tax Assessor in order to obtain early as possible indications as to what assessed valuation for next FY will be in light of the Butte Fire.



**Page 5: Major General Fund Revenues**

This page is a graphic depiction of our Major General Fund Revenue sources described under Page 1. It is provided as a graphic depiction as a picture sometimes tells a better story. In addition, this page provides actual revenue from the previous six FY's which indicates where we were prior to the Great Recession and how we are recovering. Also noteworthy, is that this page does not include other revenue, such as the reimbursement for staff and the Engine for the Butte Fire.

**Page 6: Operating Expenditures**

This section of the report begins to focus on Departmental expenditure trends. There has been a distinct shift in how this is being presented currently versus previous reports. This report is more focused on expenditures by Fund instead of Department. As an example the City Engineer Department has only budgeted \$2,670.00 of General Fund money for Personnel costs and has spent 43.2% of that budgeted amount to date. Their greatest efforts have been on water, wastewater, gas tax and TOT projects. The importance of depicting this by fund instead of by Department is so that the Council has an idea of what the fund balance picture looks like in relationship to budget. In contrast, the Planning Department has spent 131% of their personnel costs on General Fund projects (such as DeNova Homes and Mark Twain Medical Center). So their budgeted efforts shifted from Water and Wastewater projects toward General Fund Projects. Total spending for the general fund shows that we have expended 51.8% of the budget, which is slightly higher than would be anticipated; however, the increased spending is largely the result of community support money being distributed upfront for the Gold Rush days and overtime expenditures related to the Butte fire that are being reimbursed by FEMA and CalOES. With that said, the City appears to be firmly in a position to meet or beat its current budget authority for this fiscal year as long as revenue trends continue to look favorable and conservative spending is employed.

**CONCLUSION**

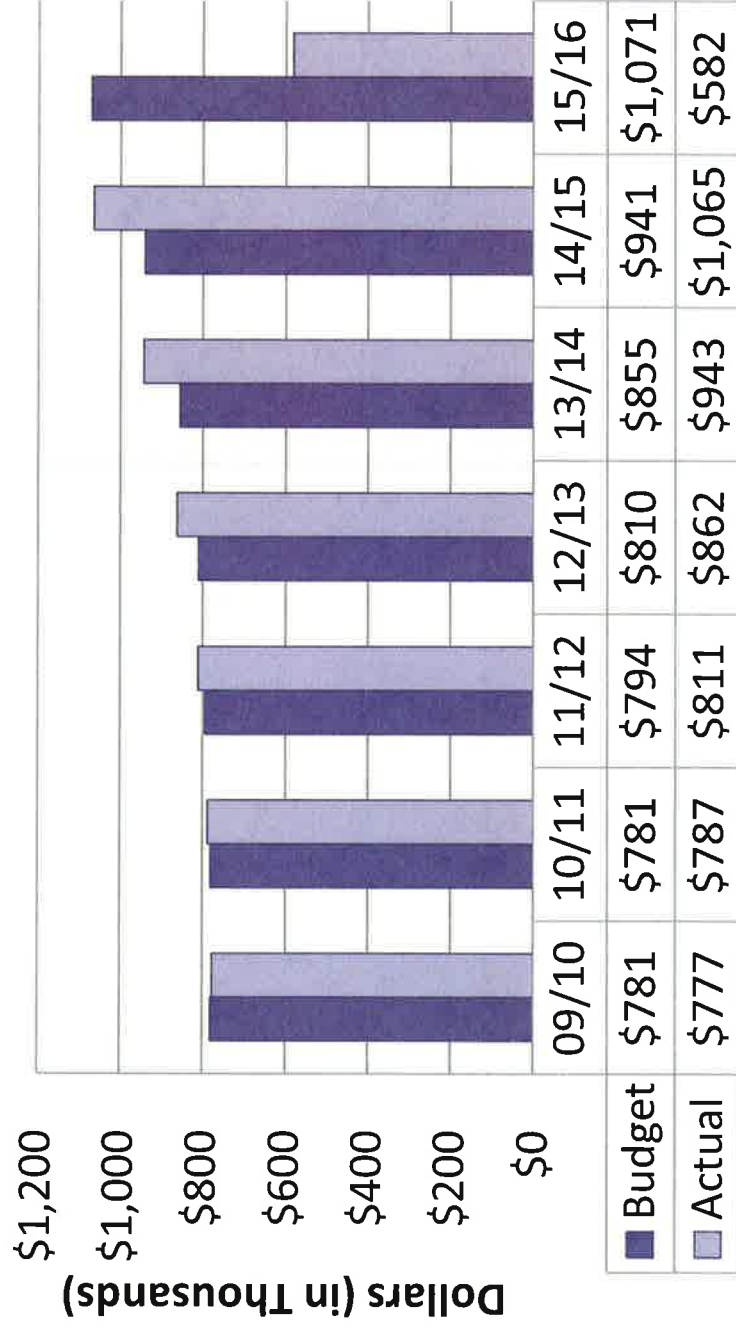
There is no action required with this report. The Council should be encouraged by the current trends in revenue and expenditures. The report provides the Council a much clearer picture of the current fiscal year. In addition, this report serves as an early indicator for next year's budget assumptions.

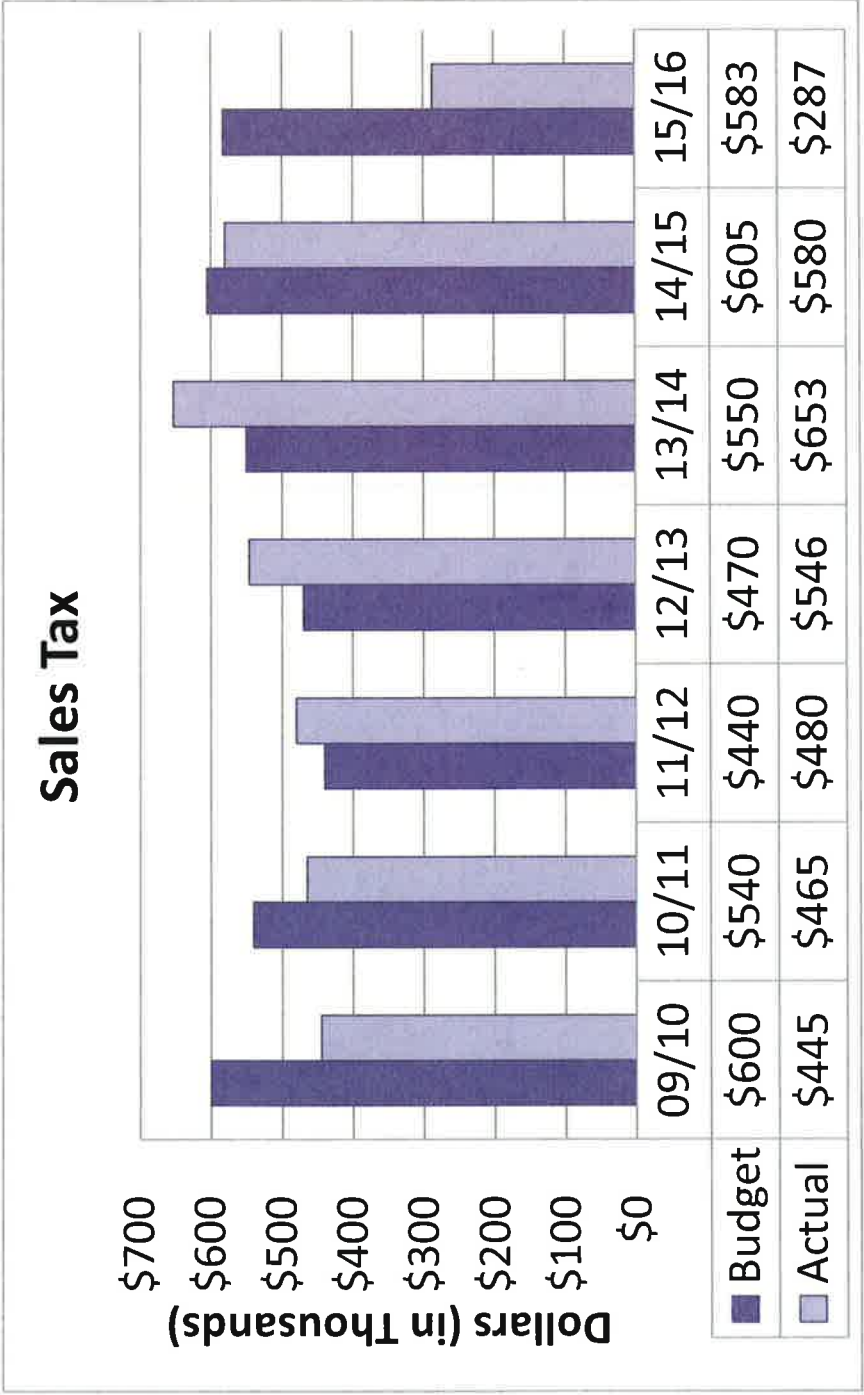
**City of Angels**  
**Major Revenue Sources**  
**For the Period July 1, 2015 – December 31, 2015**

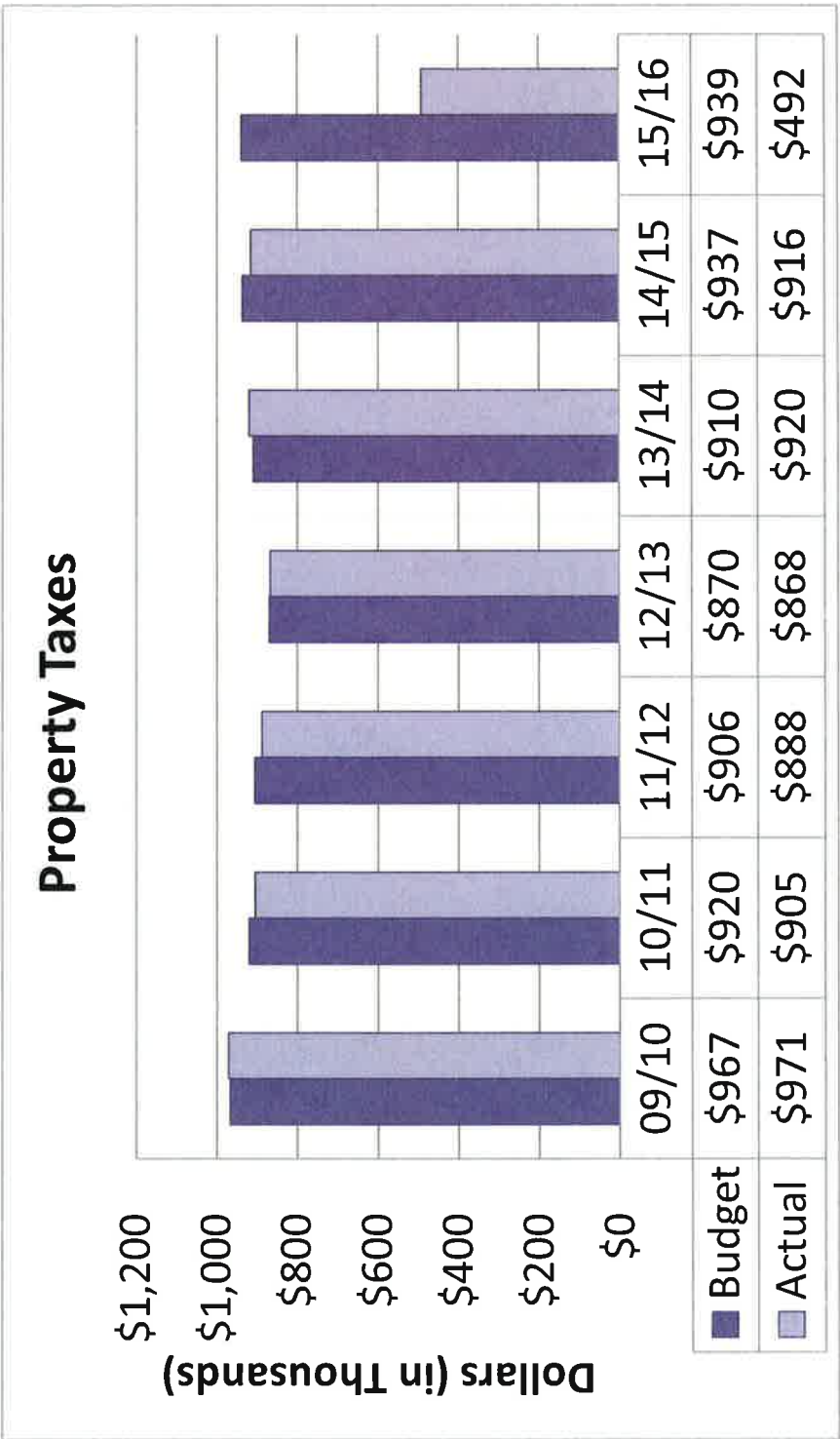
<b>Transient Occupancy Tax:</b>	<b><u>Budget</u></b>	<b><u>YTD Estimated*</u></b>	<b><u>%</u></b>
General Fund	\$ 642,718	\$ 349,102	54.3%
Safety Services	\$ 142,825	\$ 77,578	54.3%
Roads	\$ 142,825	\$ 77,578	54.3%
Tourism	\$ 142,825	\$ 77,578	54.3%
<b>Total TOT</b>	<b>\$ 1,071,193</b>	<b>\$ 581,836</b>	<b>54.3%</b>
<b>Sales Tax</b>	<b>\$ 583,421</b>	<b>\$ 287,399</b>	<b>49.3%</b>
<b>Property Taxes:</b>			
Property Tax	\$ 512,628	\$ 251,710	49.1%
PT In-Lieu of Sales Tax	\$ 182,000	\$ 117,168	64.4%
PT In-Lieu of Vehicle License Fees	\$ 244,837	\$ 122,679	50.1%
<b>Total Property Taxes</b>	<b>\$ 939,465</b>	<b>\$ 491,557</b>	<b>52.3%</b>
<b>Total Major Revenues</b>	<b>\$ 2,594,079</b>	<b>\$ 1,360,792</b>	<b>52.5%</b>

*\* Revenues are received at an approximate one-quarter time lag. As such, revenues not yet received were estimated.*

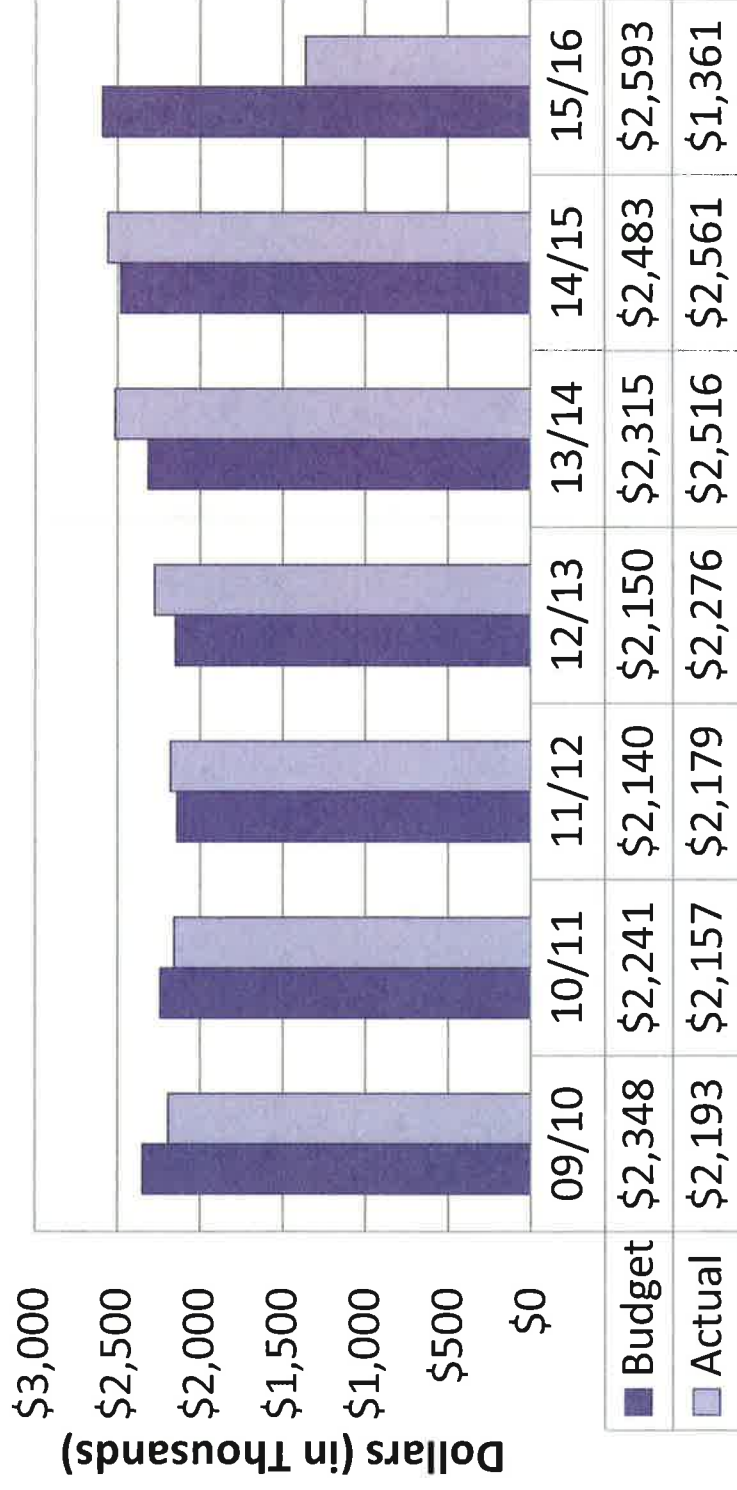
## Transient Occupancy Tax







## Major General Fund Revenues



# City of Angels

## Operating Expenditure Report

For the Period July 1, 2015 - December 31, 2015

	YTD Personnel Costs	2015-16 Personnel Budget	% Used	YTD Operations Costs	2015-16 Operations Budget	% Used	Total YTD Expenditures	2015-16 Total Budget	% Used
<u>General Fund</u>									
City Officials	3,470	6,847	50.7%	2,729	7,251	37.6%	6,199	14,098	44.0%
City Attorney	-	-	0.0%	5,303	29,444	18.0%	5,303	29,444	18.0%
City Engineer	1,153	2,670	43.2%	992	1,140	87.0%	2,145	3,809	56.3%
Finance & Gen Admin	109,484	229,561	47.7%	55,476	77,418	71.7%	164,960	306,979	53.7%
Community Support	-	-	0.0%	59,623	84,500	70.6%	59,623	84,500	70.6%
Building & Planning	90,149	68,803	131.0%	13,295	52,145	25.5%	103,443	120,948	85.5%
Museum	80,530	181,907	44.3%	20,727	48,850	42.4%	101,257	230,757	43.9%
Fire Department	278,258	474,112	58.7%	28,677	57,675	49.7%	306,934	531,787	57.7%
Police Department	617,693	1,289,180	47.9%	144,996	307,230	47.2%	762,689	1,596,410	47.8%
Public Works	63,460	125,454	50.6%	9,704	18,732	51.8%	73,164	144,186	50.7%
Total	1,244,196	2,378,534	52.3%	341,521	684,385	49.9%	1,585,717	3,062,918	51.8%
<u>Other</u>									
Water Treatment O&M	421,055	985,021	43.6%	245,568	551,043	44.6%	666,623	1,516,064	44.0%
Sewer Treatment O&M	445,676	873,881	51.0%	238,467	620,755	38.4%	684,143	1,494,637	45.8%
Gas Tax	19,331	44,198	43.7%	18,921	41,794	45.3%	38,252	85,993	44.5%
TOT Roads	88,756	141,938	62.5%	10,992	21,865	0.0%	99,748	163,803	60.9%
Total Target	\$ 2,219,015	\$ 4,403,572	50.4%	\$ 855,468	\$ 1,919,842	44.6%	\$ 3,074,483	\$ 6,323,414	48.6%
			48.9%			50.0%			

## **AGENDA ITEM #4**



**STAFF REPORT**

To: City Council  
From: Derek Cole, City Attorney  
Agenda: March 15, 2016  
Re: Re-Introduction of Ordinance Regarding Cultivation of Marijuana



**Summary**

In January, the City Council considered the introduction and enactment of an ordinance that would effectively ban the cultivation of marijuana within city limits. At the second meeting that month, the Council declined to enact the then proposed ordinance, but instead directed that it hold a workshop to consider the full range of options available for dealing with marijuana cultivation. Last month, the Council held that workshop and, after hearing a report from the City Attorney and the testimony of several witnesses, it chose to take no action at the time. A number of Council members indicated they would prefer to let the State enact regulations under the new powers granted by the trio of marijuana bills the Legislature enacted last year.

Following the February workshop, a majority of Councilmembers requested the subject of marijuana cultivation be brought back for further consideration. To facilitate this request, Staff has included the ordinance that was previously considered in January for potential Council action. If it is the Council's pleasure, the Council may introduce the proposed ordinance so it may be considered for enactment at the next (or some other) Council meeting. Alternatively, the Council may direct the City Attorney to prepare revisions to the ordinance or prepare some other work product for consideration.

**Fiscal Impact**

There are no immediate significant fiscal impacts associated with the proposed ordinance. The City may, however, incur future costs in enforcing the proposed ordinance if enacted. Some of these costs may be recoverable through abatement or other means of recovery provided for by California's civil procedure laws.

**Legal Background**

The Compassionate Use Act, a measure adopted by California voters, took away criminal penalties for the possession and cultivation of small amounts of marijuana when used for medical

{DPC/00041201.  
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**CITY OF ANGELS** PO Box 667, 584 S.Main St., Angels Camp, CA 95222 **P:** (209) 736-2181 **F:** (209) 736-0709

purposes and sanctioned by a medical professional. Although criminal penalties have been removed for this conduct, the state appellate courts have consistently ruled that cities may use civil enforcement techniques, rather than criminal enforcement techniques, to ban or regulate aspects of marijuana use.

Thus the ordinance before you tonight provides that the city may use only civil enforcement techniques, typically through Code Enforcement, for a prohibition on the cultivation of marijuana. Civil tools include the issuance of administrative citations, which can lead to a fine collected as a civil debt to the City, and nuisance abatement orders issued by the civil department of the courts

**Recommendation**

The City Attorney recommends the City consider introducing the attached ordinance.

**Attachments:**

1. Proposed Ordinance Prohibiting Cultivation of Marijuana within City Limits

{DPC/00041201.  
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Mayor Wes Kulm • Vice Mayor Elaine Morris • Council Members Lambert Sobon, Amanda Folendorf, Scott Behiel  
City Administrator Michael McHatten • City Attorney Derek Cole, Cota Cole, LLP

**CITY OF ANGELS  
CITY COUNCIL  
ORDINANCE NO. 474**

**AN ORDINANCE ADDING CHAPTER 8.27 OF THE CITY OF ANGELS MUNICIPAL  
CODE CONCERNING CULTIVATION OF MARIJUANA**

THE CITY COUNCIL OF THE CITY OF ANGELS DOES ORDAIN AS FOLLOWS:

**Section I:** Chapter 27 of Title 8 of the Angels Camp Municipal Code is hereby added to read as follows:

**CHAPTER 8.27 MEDICAL MARIJUANA CULTIVATION**

**Section 8.27.010 Findings and Purpose**

A. In enacting this Chapter, the City Council hereby finds and determines as follows:

1. In 1996, California voters approved Proposition 215, the Compassionate Use Act (“CUA”), followed by the Congressional enactment of Senate bill 420, the Medical Marijuana Program Act (“MMPA”) in 2004, both codified as California Health and Safety Code sections 11362.7-11362.83.
2. The CUA and MMPA regulate medical marijuana and create a limited exception from criminal liability for seriously ill persons who are in need of medical marijuana for specified medical purposes and who obtain and use medical marijuana under limited, specified circumstances.
3. In particular, the CUA only provides a defense from criminal prosecution for possession and cultivation of marijuana to qualified patients and their primary caregivers. Further, the scope of the MMPA only establishes a statewide identification program and affords qualified patients, persons with identification cards and their primary caregivers, an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana.
4. On August 25, 2008, Edmond G. Brown, the California Attorney General, issued “Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use” (“the Attorney General Guidelines”), which sets regulations intended to ensure the security and non-diversion of marijuana grown for medical use by qualified patients. Health and Safety Code 11362.81(d) authorizes the Attorney General to “develop and adopt appropriate guidelines to ensure the security and non-diversion of marijuana grown for medical use by patients qualified under the CUA”. Nothing in the Guideline imposes an affirmative mandate upon local governments, such as the City of Angels Camp to allow, sanction or permit the cultivation of medical marijuana within their jurisdictional limits.

5. It is critical to note that the CUA or MMPA do not abrogate the City's powers to regulate for public health, safety and welfare. Health and Safety Code 11362.5(b)(2) expressly anticipates the enactment of additional local legislation, providing, "Nothing in this section shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others, nor to condone the diversion of marijuana for non-medical purposes."
6. In 2015, the Legislature enacted, and the Governor signed, a trio of bills that comprise the Medical Marijuana Regulation and Safety Act, ("MMRSA") which expressly recognizes and authorizes cities and counties to prohibit cultivation of marijuana within their municipal territories.
7. The City Council takes legislative notice that other California cities and counties which have permitted the cultivation of medical marijuana within their city limits have experienced serious adverse impacts associated with and resulting from such cultivation. These impacts include damage to buildings in which cultivation occurs, including improper and dangerous electrical alterations and use, inadequate ventilation, increased occurrences of home-invasion robberies and similar crimes and nuisances to neighboring properties from the strong and potentially noxious odors from the plants and increased crime.

B. The purpose of this Chapter is to prohibit the cultivation of medical marijuana within the City of Angels Camp and adopt rules consistent with the CUA, MMPA, and MMRSA to regulate medical marijuana in a manner that protects the public health, safety and welfare of the community from any adverse impacts which such activities may have on nearby properties and residents, without interfering with the rights of qualified patients and their primary caregivers, as such terms are defined in the CUA and MMPA, to possess or cultivate medical marijuana pursuant to state law.

#### **Section 8.27.020      Definitions of Medical Marijuana Cultivation**

For purposes of this Chapter, the term "medical marijuana cultivation" shall mean the planting, growing, harvesting, drying, or processing of marijuana plants or any part thereof.

#### **Section 8.27.030      Medical Marijuana Cultivation Prohibited**

A. Medical marijuana cultivation is prohibited in the City of Angels Camp. No medical marijuana cultivation shall be allowed to operate in, be located in, or otherwise be permitted in the City of Angels Camp.

B. The City shall not issue, approve, or grant any permit, license or other entitlement for the cultivation of medical marijuana.

#### **Section 8.27.040      Enforcement of this Chapter**

The prohibitions of this Chapter shall be enforced solely through means that are civil in nature, including by abatement and fines or penalties as provided within this Code or as otherwise

provided by law. The prohibitions of this Chapter shall not be enforced through any criminal means.

**Section II.** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**Section III.** To the extent the adoption of this ordinance constitutes a project under the California Environmental Quality Act (“CEQA”), the City Council determines that the provisions of this Ordinance are exempt from that Act because the instant ordinance is intended to protect the environment, as provided for in CEQA Guideline (California Code of Regulations, Title 14) section 15308, and is intended to authorize enforcement actions pursuant to CEQA Guideline section 15321. The City Council also finds pursuant to CEQA Guideline Section 15061(b)(3) that the project is exempt from environmental review because it can be seen with certainty that the adoption of the ordinance would not have any significant impact on the environment.

**EFFECTIVE DATE:**

The foregoing Ordinance or a summary shall, before the expiration of fifteen (15) days of its passage, be published with the names of the Council Members voting for and against the same once in a newspaper of general circulation printed and published in the County of Calaveras, State of California, and said Ordinance shall take effect and be in force thirty (30) days after the passage thereof.

This Ordinance was introduced and enacted at a regular meeting of the City Council on March 15, 2016 and passed and adopted at a regular meeting of the City Council of the City of Angels held on April 19, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Wes Kulm  
Mayor

ATTEST:

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Mary Kelly  
City Clerk